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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,267	03/09/2004	Michele Bernini	163-538	2371
47888	7590	10/19/2005	EXAMINER	
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			LU, JIPING	
			ART UNIT	PAPER NUMBER
			3749	
DATE MAILED: 10/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/796,267	Applicant(s) BERNINI ET AL.	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 34-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33, 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims 34-42 drawn to an invention nonelected with traverse in Paper filed 12/3/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-7, 13, 14, 25, 31, 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Nunn et al. (U. S. Pat. 3,328,891).

Nunn et al show an improved heating head 20 for a stove (not shown, below 20) characterized in that it comprises a supporting structure 22 for a series of adjustably tilted radiating bodies 24 situated along a circumference (the angular adjustable radiating bodies 24, 25 pointing toward an imaginary circle below 20 for cotton heating purposes), each of the radiating bodies 24 being fed individually. The heating head 20 is capable of directs heat outward from the center of stove. For claims 4, 7, see adjustable handles 25. For claims 5-6, see adjustable and regulated fuel supply 26-28. For claims 13, 31 and 32, see supporting base with wheels 21 and fixed heating head 20 is fixed to top of stem 22. For claim 14, see propane gas tank 27. For claim 25, the device shown in Fig. 1 can be dismantled.

4. Claims 1, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Champion (EP 1217302A1).

Champion shows an improved heating head 32 for a stove (Fig. 2) characterized in that it comprises a supporting structure (near 40, 44, to hold the burners) for a series of adjustably tilted radiating bodies 50 (including burners) situated along a circumference, each of the radiating bodies 50 being fed individually. The support structure has a truncated pyramidal or conical shape with a smaller base placed downwards. The heating head 32 directs heat outward from the center of the stove.

5. Claims 1, 13-22, 26-28, 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Resmo et al (U. S. Pat. 6,446,623).

Resmo shows an improved heating head 16 for a stove (Figs. 1-9) characterized in that it comprises a supporting structure 14 for a series of adjustably tilted radiating bodies 16, 28 situated along a circumference, each of the radiating bodies 16, 28 being fed individually. The support structure has a truncated pyramidal or conical shape with a smaller base placed downwards. The heating head 16 directs heat outward from the center of the stove. For claim 15, see door 40. For claims 17, 19, 22 see control panel 33 and switch 34. For claim 20, see tubes 44. With regard to claims 28, 43, the control panel 33 can be arranged inside the cylindrical structure 30.

6. Claims 1, 13-24, 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Ashton et al (U. S. Pat. 6,499,480).

Ashton et al show an improved heating head 8 for a stove (Figs. 1-16) characterized in that it comprises a supporting structure 60 for a series of adjustably tilted radiating bodies 804

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situated along a circumference, each of the radiating bodies 804 being fed individually. The support structure 60 has a truncated pyramidal or conical shape with a smaller base placed downwards. The heating head 8 directs heat outward from the center of the stove. For claim 15, see door (not numbered, col. 5, line s 5-6). For claims 17, 19, 22, 33, see control panel (Fig. 2) and mechanical components or switches 32. For claim 20, see tubes 16. For claims 23, 24, see igniter controls 30-38, 130,

7. Claims 1 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Collet (U. S. Pat. 6,366,450).

Collet shows an improved heating head 1 for a stove (Figs. 1-15) characterized in that it comprises a supporting structure 26 for a series of adjustably tilted radiating bodies 8,39 situated along a circumference, each of the radiating bodies 8, 39 being fed individually. The heating head 1 directs heat outward from the center of the stove. The stove can be dismantled (Figs. 10-15).

#### ***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nunn et al. (U. S. Pat. 3,328,891) in view of Morris et al (U. S. Pat. 4,889,481).

Nunn et al show the overall claimed combination same as the applicant's. Morris et al show a radiant burner made of ceramic material same as claimed. Therefore, to substitute the

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ceramic radiant burners of Morris et al for the radiant burners 14 of Nunn et al would have been obvious because the ceramic radiant burners are well known in the art for lasting useful life.

10. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nunn et al. (U. S. Pat. 3,328,891) in view of Waters (U. S. Pat. 6,651,647).

The heating head of Nunn et al. as above includes all that is recited in claim 29-30 except for the safety device with thermocouple for optionally closing a gas tap of the burner. Waters teaches a heating head with a safety device. The safety shut off is provided as controlled by the thermocouple 64 which is sensitive to temperature variations, and will cause an open gas valve (not shown) to close when the flame in the burner head 60 is extinguished for any reason with the gas valve control 56 turned on. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the burners of Nunn et al. with a thermocouple as taught by Water in order to improve the safety.

### ***Response to Arguments***

11. Applicant's arguments filed 7/13/2005 have been fully considered but they are not persuasive to overcome the rejection. First broad claims fail to structurally define over the prior art references as applied. The applicant is requested to point out from the claims, if any, that any structural limitation that the references do not teach or show. Each and every piece of prior art references does show the improved heating head directs heat or capable of directing heat outward from the stove center. The patent to Nunn et al does show the stove heating head 20 with a supporting structure 22 for adjustably tilted individually fed radiating bodies 24 which are capable of directing heat outward from the center of stove. There is no structural difference

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between the broad claims and the Nunn patent. The applicant also argues that the French language EP patent 1217302A1 does not show supporting structure and adjustably titled radiating bodies. The examiner disagrees. Although the reference numerals 40 and 50 might not expressly represent as supporting structure and radiating bodies, but the EP patent clearly shows (Fig. 2) a supporting structure (near 40, 44, to hold or suspend the burners by means not numbered under 32) for a series of adjustably tilted individually fed radiating bodies 50 (including burners) same as the applicant's. The heating head 32 directs heat outward from the center of the stove. Again there is no structural difference between the broad claims and the EP patent to Champion. The patent to Resmo also shows the stove heating head 16 with a supporting structure 14 for adjustably tilted individually fed radiating bodies 16, 28 which are capable of directing heat outward from the center of stove. There is no structural difference between the broad claims and the Nunn patent. The applicant argues that the elements 804 of Ashton et al patent are not radiating bodies. The examiner disagrees. The patent to Ashton et al does show the stove heating head 8 with a supporting structure 60 for adjustably tilted individually fed radiating bodies 804 which are capable of directing heat outward from the center of stove. The elements 804 do radiate heat. There is no structural difference between the broad claims and the Ashton et al patent. The applicant argues that the Collect patent (USP 6336450) does not show individually fed radiating bodies. The examiner disagrees. The Collect patent does show the stove heating head 1 with a supporting structure 26 for adjustably tilted individually fed radiating bodies 8, 29 which direct heat outward from the center of stove. The radiating bodies are individually fed. There is no structural difference between the broad claims and the Collect patent. The applicant's argues that the re is no reason to combine the patents to

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Nunn and Morris in the 103 rejection. The examiner disagrees. The patent to Nunn et al show the overall claimed combination same as the applicant's. Morris et al show a radiant burner made of ceramic material same as claimed. Therefore, it is the examiner's position that in view of the combined teachings of the references one skilled in the art would be able to derive the broadly claimed invention by substituting the ceramic radiant burners of Morris et al for the radiant burners 14 of Nunn et al in order to prolong the useful life of burners. Finally, the applicant's argues that there is no teaching to combine the patents to Nunn and Waters in the 103 rejection of claims 29-30. The examiner disagrees. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the patent to Nunn et al show the overall claimed combination same as the applicant's. Waters shows a heating head with a safety shut off as controlled by thermocouple 64 which is sensitive to temperature variations. Therefore, it is the examiner's position that in view of the combined teachings of the references one skilled in the art would be able to derive the broadly claimed invention by providing the burners of Nunn et al. with a thermocouple as taught by Water in order to improve the safety.



***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

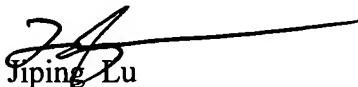
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EHUD GARTENBERG can be reached on 571 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jiping Lu  
Primary Examiner  
Art Unit 3749

J. L.